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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,570	01/09/2002	Der-Hou Tsou	HC01-001	6622
28112	7590	12/18/2003	EXAMINER	
GEORGE O. SAILE & ASSOCIATES 28 DAVIS AVENUE POUGHKEEPSIE, NY 12603			KUNEMUND, ROBERT M	
			ART UNIT	PAPER NUMBER
			1765	

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/042,570

Applicant(s)

TSOU ET AL.

Examiner

Robert M Kunemund

Art Unit

1765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 to 8, 11, 12, 17 to 20, 23, 29, 38 to 40, 43, 46 to 48 and 51 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Korkishko et al.

The Korkishko et al reference teaches a method of producing waveguides. A ferroelectric crystal, lithium niobate is first placed into a chamber. The crystal is treated with a proton exchange process. The source of the proton can be an acid such as benzoic acid. Then the treated crystal can be annealed. The annealing step is optional. The final treatment to the crystal is a reverse proton exchange process. The properties of the crystal are determined by the processing steps, note entire reference and particularly, pages 1838,1840.

Claims 30 and 31 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jp 07-218736.

The Jp 07-218736 reference teaches a method of producing waveguides. A ferroelectric crystal, lithium niobate is first placed into a chamber. The crystal is treated with a proton exchange process. The source of the proton can be an acid such as benzoic acid. Then the treated crystal can be annealed. The properties of the crystal are determined by the processing steps, note, translated abs.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 9, 10, 13 to 16, 21, 41, 42, 44, 45, 49, 50, 52, and 53 to 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korkishko et al.

The Korkishko et al reference is relied on for the same reasons as stated, supra, and differs from the instant claims in the process parameters. However, in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to determine through routine experimentations the optimum, operable process parameters in the Korkishko et al process in order to create the desired final waveguide characteristics as the reference does teach changes to the process effect the final product.

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Claims 22 and 24 to 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korkishko et al.

The Korkishko et al reference is relied on for the same reasons as stated, supra, and differs from the instant claims in the use of the waveguide. However, in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to determine through routine experimentations the optimum, operable use in the Korkishko et al process as the reference does teach several different uses of the waveguides.

Claims 32 to 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jp 7-218736

The Jp 7-218736 reference is relied on for the same reasons as stated, supra, and differs from the instant claims in the process parameters. However, in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to determine through routine experimentations the optimum, operable process parameters in the Jp 7-218736 process in order to create the desired final waveguide characteristics as the reference does teach changes to the process effect the final product.

Examiner's Remarks

The remaining references are merely cited of interest a showing the state of the art.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M Kunemund whose telephone number is 703-308-1091. The examiner can normally be reached on 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on 703-305-2667. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

RMK



ROBERT KUNEMUND
PRIMARY EXAMINER